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6 Attorneys for Defendants
WORLD SAVINGS BANK, FSB,
7 renamed and now known as
WACHOVIA MORTGAGE, FSB, sued as
8 WORLD SAVINGS BANK
and GOLDEN WEST SAVINGS
9 ASSOCIATION SERVICE CO., sued
As GOLDEN WEST SAVINGS ASSOCIATION.

11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13 ROMELYN G. GARNER, Pro Se,

14 Plaintiff,

15 vs.

16 WORLD SAVINGS BANK; GOLDEN
17 WEST SAVINGS ASSN;

18 Defendants.

Case No. 08 CV 847 DMS (WMc)

DECLARATION OF
DEFENDANTS' COUNSEL RE
COSTS AND FEES ARISING
FROM PLAINTIFF'S FAILURE TO
ATTEND EARLY NEUTRAL
EVALUATION CONFERENCE

Date: September 2, 2008
Time: 2:00 p.m.
Courtroom: C

20
21 I, Mark T. Flewelling, declare:

22 1. I am an attorney at law licensed to practice before this Court and am a
23 member of the law firm of Anglin, Flewelling, Rasmussen, Campbell & Trytten,
24 LLP, counsel of record for defendants World Savings Bank, FSB, now known as
25 Wachovia Mortgage, FSB, as well as Golden West Savings Association. I have
26 personal knowledge of the matters stated in this declaration.

27 2. I, along with Wachovia's vice president and assistant general counsel,
28 Michael Goldberg, attended the early neutral evaluation conference on August 18,

2008 at 2:00 p.m. The conference was originally scheduled by the Court for July 22, 2008. At Wachovia's request, and to accommodate Mr. Goldberg's travel schedule, the Court continued the conference to August 18, 2008. True and correct copies of Wachovia's application for a continuance and this Court's order are attached, respectively, as Exhibits A and B.

3. On July 10, 2008 Plaintiff was served by mail with the order continuing the conference to August 18, 2008. A true and correct copy of the proof of service is attached as Exhibit C.

4. Plaintiff failed to appear at the August 18, 2008 early neutral evaluation conference. The Court thus issued an OSC re sanctions (attached as Exhibit D) which permits Wachovia to itemize its fees and costs to attend the ENE.

5. My hourly billing rate to Wachovia is \$320. I have practiced law for 28 years, having graduated from the University of Southern California Law School in 1980. Much of my career has been devoted to representing banks and other financial institutions in litigation matters. The fees and costs to attend the August 18 ENE Conference are:

a. Attorney's Fees (at \$320/hr)

- i. Driving time from Pasadena to San Diego 2.25 hours;
- ii. Attendance at the conference .50 hours;
- iii. Driving time from San Diego to Pasadena 2.50 hours;
- iv. Preparation and Finalization of Declaration .75 hours

Fees Subtotal: 6.00 hours x \$320/hr = \$1,920.00

b. Attorney's Expenses to attend Conference

- i. Mileage expenses – 274 miles x 58.5 cents = \$160.29
- ii. Parking Expense (Westin Hotel) \$24.00 (a true and correct copy of the receipt is attached as Exhibit E.)

Expenses Subtotal: \$184.29

1 c. Mr. Goldberg's Expenses

2 i. Round trip flight from San Antonio Texas: \$403.00 (a true and
3 correct copy of the receipt is attached as Exhibit F.)

4 ii. Hotel Expense (night at the Westin Hotel): \$199.00 plus \$25.00
5 A true and correct copy of the receipt is attached as Exhibit F.)

6 Expenses Subtotal: \$627.00

7 TOTAL FEES AND COSTS: \$2,731.29

8 6. I therefore request \$2,731.29 in sanctions against plaintiff Romelyn
9 Garner, consisting of \$1,920.00 in fees for the time wasted to attend the conference,
10 \$184.29 for my expenses and \$627.00 for Mr. Goldberg's expenses. I request
11 payment no later than September 15, 2008.

12 I declare under penalty of perjury under the laws of the United States of
13 America that the foregoing is true and correct. If called on to testify to the
14 foregoing, I would and could competently testify thereto.

15 Executed on this 20th day of August, 2008 in Pasadena, California.

16
17 /s/ Mark T. Flewelling
Mark T. Flewelling